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PP RUEHCN RUEHDT RUEHHM

DE RUEHJA #0843/01 1190410

ZNR UUUUU ZZH

P 280410Z APR 08

FM AMEMBASSY JAKARTA

TO RUEHC/SECSTATE WASHDC PRIORITY 8835

RUEHPH/CDC ATLANTA GA

INFO RUEAUSA/DEPT OF HHS WASHINGTON DC

RUEAWJB/DOJ WASHDC

RUEHRC/USDA FAS WASHDC

RHEHNSC/NSC WASHDC

RUEHZS/ASSOCIATION OF SOUTHEAST ASIAN NATIONS

RUEHGV/USMISSION GENEVA 7763

UNCLAS SECTION 01 OF 02 JAKARTA 000843

SIPDIS

SIPDIS

SENSITIVE

DEPT FOR EAP/MTS, G/AIAG, L/DL, EAP/EX, AND OES/IHA

USAID FOR ANE/CLEMENTS AND GH/CARROLL

DEPT ALSO PASS TO HHS/WSTEIGER/ABHAT/MSTLOUIS AND HHS/NIH

DEPT ALSO PASS TO DOJ for OFL

GENEVA FOR WHO/HOHMAN

USDA/FAS/OSTA BRANT, ROSENBLUM

USDA/APHIS ANNELL

E.O. 12958: N/A

TAGS: TBIO EAGR AMGT PGOV ID KLIG

SUBJECT: FAMILY SUES UNITED STATES FOR CAUSING AVIAN INFLUENZA

REF: A) JAKARTA 786 B) STATE 43100

¶1. (SBU) Summary. The U.S. Government has been named in a lawsuit brought by the family of a victim of Avian Influenza (AI). The suit rests on the claims made by Minister of Health Supari that the USG may be behind the development of a bio-terrorism weapon derived from AI samples. The complaint was improperly served on the Embassy and the initial hearing has been postponed to May 13. End Summary.

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Embassy Received Legal Summons from Victim's Family  
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¶2. (SBU) On April 16, 2008, the US Embassy Jakarta received a legal summons from the Ministry of Foreign Affairs (DEPLU) naming the US Government (USG) and World Health Organization (WHO) as defendants in a case brought by the family of a recent avian influenza victim (AI). The summons listed an April 22, 2008 court appearance. Per reftels, Embassy Jakarta returned the papers to DEPLU because the complaint was improperly served.

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Victim Alleged to be Family's Provider  
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¶3. (SBU) The victim, Nasrudin, was a 32 year-old male from Sukamulya village in Tangerang district, Banten province. He worked as a vendor selling fried chicken to customers in his neighborhood and the plaintiff states Nasrudin was the provider for the plaintiff's family. Nasrudin reported to the health clinic (puskesmas) in Cikupa on January 22nd and the hospital discharged him. On January 24th, he reported to Bakti Asih Hospital in Tangerang and on January 26th he was transferred to Persahabatan Hospital where he died on January 29th, 2008. The victim's father is the plaintiff.

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Allegations Rooted in Claims Made in Supari's Book  
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¶4. (SBU) The plaintiff's complaint alleges that the USG bears responsibility for his son's death and relies heavily on the recent book by Minister of Health Siti Fadilah Supari, "It's Time for the World to Change: Divine Hand Behind Avian Influenza" and material posted to the web site [www.banjarmasinpost.co.id](http://www.banjarmasinpost.co.id) as proof of their

claims. The plaintiff requests financial recompense of Rp. 2,340,560,000 (approximately \$253,800) for lost income and "intangible losses" plus medical expenses. He also requests that the defendants place a printed apology to the plaintiff in five printed media for three consecutive days following the ruling.

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Case May Be Second Attempt for Compensation  
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¶ 15. (SBU) This does not seem to be the first time that this plaintiff has pursued legal avenues to receive compensation. Two internet postings dated February 4, 2008, suggest that the victim's family first brought a malpractice claim against the two hospitals that treated him, citing that a misdiagnosis of dengue ultimately led to the victim's death.

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Defendants Not Properly Served with Legal Summons  
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¶ 16. (SBU) The original court documents were drafted on March 3, 2008 but not received at the Embassy until April 16th. Since Embassy Jakarta did not receive the summons in the 60 days required by customary international law, the Embassy returned documents to the Ministry of Foreign Affairs and did not officially appear in the April 22 proceedings. A US Department of Justice local employee present at the courthouse reported that the plaintiff or their attorney called and asked whether the defendants were present. Upon learning they were not, the case was adjourned to May 13. Embassy Jakarta expects the summons to be re-served upon them in the future.

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¶ 17. (SBU) As of April 28, the World Health Organization has not received notification from DEPLU. WHO Jakarta has shared copies of our documents with WHO headquarters in Geneva and are awaiting instructions.

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Embassy Jakarta's Response Fielded by Public Affairs  
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¶ 18. (SBU) Anticipating negative publicity resulting from the lawsuit, Embassy Jakarta's Public Affairs section issued a statement on the day of court date denying the unfounded allegations. Two Indonesian papers - The Jakarta Post and Koran Tempo - ran the statement, however, media did not report the court case itself.

HUME